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BELL: I WAS 'SET UP' ON MARSTON

By Lance Gay

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Seeking once and for all to put the Marston case to rest, Attorney General Griffin B. Bell says he has a nagging feeling he was "set up" in the affair but doesn't know who snared him.

"One has that feeling," the attorney general said at a rambling press conference yesterday that was staged in front of a roaring fire in his fifth-floor Justice Department conference room.

"I'd just about as soon drop this matter," Bell said at one point. But a few moments later he interrupted an aide who sought to end the press conference and urged reporters to ask any and all the questions they had on the issue in hopes of putting it to rest.

Bell said that whoever it was who did what he thinks they did to him, they won't do it again.

"They're never going to get me in this trap again. Wasn't it John F. Kennedy who said, 'Fool me once, your fault; fool me twice, my fault?'"

BELL SAID THAT at one point when President Carter became bogged down in the charges and countercharges over trying to replace the Philadelphia prosecutor, he thought of quitting his job.

U.S. Attorney David W. Marston, a Republican holdover from the previous administration, had launched investigations into alleged improprieties by two Democratic Pennsylvania congressmen, Reps. Joshua Eilberg and Daniel J. Flood. At the time

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Marston was being considered for replacement by a Democrat.

At a press conference Carter said Eilberg called him last Nov. 4 to ask that he "expedite" Marston's removal and Carter immediately called Bell and urged him to replace the Republican.

But Bell maintained neither he nor the president knew of the Marston investigation involving Eilberg at the time. When he reviewed the FBI file later, Bell said, as of Nov. 4 it contained only two references to Eilberg and they both involved essentially low-level charges.

AFTER THE FURORE broke in the case, Bell said "I felt terrible. . . . I didn't feel we had done anything wrong, but I felt bad that I didn't call the president and say, 'You shouldn't have had that conversation with Congressman Eilberg.'"

Bell said his funk over the issue was compounded by the desperate time he had in trying to get the facts on the investigation from the bureaucracy and his aides.

"It took us three, four, five days to get the facts, and I said at one point to one of my assistants, 'If I were the president and this happened, I be-

lieve I'd find me another attorney general.'"

Had he known that Marston was investigating Eilberg, Bell said, he certainly would have informed the president. And, he said, someone should have told him about it or sounded some alarm.

His not knowing, he said, was the fault of some break in the chain of command, the fault of some unnamed person or persons.

"I wasn't let down, it was negligence. I know the chain broke," he said, adding that he hasn't yet come to a firm conclusion on who if anyone was negligent.

BELL WAS ASKED if he believed Marston set him up.

"I can't keep a running contest going. The more I get into that the more argument I create," he said.

Bell said he believes he has nothing to apologize for and added that he feels he's done a good job as attorney general. In the future, though, he said he is going to handle cases like Marston's, where the U.S. attorney refuses to quit, with more caution.

"I'll go to them with hat in hand and negotiate. I don't want this country going through the time of thinking investigations are being interrupted or cut off," he said.

He recalled that one of the worst times he had was when the pilot of a United Airlines plane came back to

tell him that he had written to Carter excoriating the president for his actions in the Marston matter.

Bell said he explained to the pilot that neither he nor Carter was at fault for the problems that came with the replacement of Marston.

BELL CALLED the press conference yesterday in the midst of rumors that he was about to announce the appointment of Samuel Dash, head of the Democratic prosecutorial staff in the Senate Watergate hearings, as a replacement for Marston.

But Bell said the final decision on appointing Dash to the post has not yet been made.

"He is the likely candidate and there's no coming off of him," Bell said. But he explained that he needed more time to check on Dash's qualifications.